

Message Text

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 5121

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E.O 11652: N/A

TAGS: MILI

SUBJ: LAWS GOVERNING ARMS EXPORTS

REF: STATE 177789

1. IN THE CASE OF ARGENTINA, SEVERAL SETS OF DECREES AND THEIR CORRESPONDING REGULATIONS BEAR ON THE QUESTION OF ARMS AND MUNITIONS EXPORT CONTROLS. THE BASIC LAW OF ARMS, LEY NO. 20429, DATED 1973 (LEY DE ARMAS Y EXPLOSIVOS), AND REGULATIONS, AS CONTAINED IN THE IMPLEMENTING DECREE, DECRETOR 395, DATED 1975, PROVIDE FOR CLOSE REGULATION OF THE IMPORTATION, SALE, TRANSFER AND BEARING OF ARMS (BA-5403) AND REQUIRE ALL MANUFACTURERS AND EXPORTERS TO REGISTER WITH THE DIRECCION GENERAL DE FABRICACIONES MILITARES (FM), THE ARMY-OWNED ARMAMENTS COPORATION. SEE ART. 50 OF DECRETRO NO. 395.

2. REGARDING SPECIFIC EXPORT CONTROLS, LEY NO. 20429 REAFFIRMS A 1942 LAW, LEY NO. 12,709, WHICH IN ADDITION TO CHARTERING FM, VESTED IN THE GOA A MONOPOLY IN THE EXPORT OF MILITARY ARMS AND WAR MATERIALSIN ARG. 34, AND BY IMPLICATION SOLE AUTHORITY, WITH THE EXCEPTION OF THE ARMED FORCES, TO CONTROL THE EXPORT OF ALL TYPES OF ARMS.

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3. IN 1972, ART. 34 OF LEY NO. 12,709 WAS AMENDED BY LEY NO. 20,010 IN ORDER 1) TO ENCOURAGE COMMERCIALIZATION AND PRIVATE SECTOR PARTICIPATION, AND 2) TO SIMPLIFY AND CLARIFY PROCEDURES RESPECTING EXPORT OF ARMS, PARTICULARLY FOR "CIVILIAN USE". REGULATIONS IMPLEMENTING LEY NO. 20,010, CONTAINED IN DECRETO 8731, MODIFIED THOSE REGULATIONS CORRESPONDING TO ART. 34 OF LEY NO. 12,709. IT IS LEY NO. 20,010 WHICH HAS THE MOST DIRECT BEARING ON THE SUBJECT AT HAND, ALTHOUGH MORE RECENT STATUTES CONTINUE TO REFER TO LEY NO. 12,709, AS AMENDED.

4. IN THE TREATMENT OF EXPORTS, ART. 2, LEY NO. 20,010 DISTINGUISHES BETWEEN THREE CATEGORIES OF ARMS AS DEFINED IN ART. 1: 1) ARMS AND MUNITIONS OF ESSENTIALLY MILITARY CHARACTER; 2) PORTABLE, NON-AUTOMATIC ARMS, WHICH WOULD OTHERWISE BE INCLUDED IN THE PREVIOUS CATEGORY, BUT WHOSE CALIBRE IS LESS THAN 9MM IN THE CASE OF HAND GUNS AND 7,62 IN THE CASE OF RIFLES AND SHOULDER ARMS; AND 3) ARMS CLASSIFIED AS SPORTING OR FOR "CIVILIAN USE". ACCORDING TO DECRETO NO. 395 THIS LATTER CATEGORY WOULD INCLUDE 22 CALIBRE TYPE TARGET RIFLES, AND SPORTING SHOTGUNS.

5. IN THE CASE OF MILITARY WEAPONRY FALLING IN THE 1ST CATEGORY LISTED IN PARA 2., ART 2 CONTINUES PREVIOUS PRACTICE BY REQUIRING EXPORTERS TO OBTAIN AUTHORIZATION BY THE PRESIDENT, AT THE PROPOSAL AND INITIATIVE OF THE MINISTRY OF DEFENSE AND WITH THE PARTICIPATION AND FORMAL CONCURRENCE OF THE MINISTRIES OF FOREIGN AFFAIRS AND COMMERCE. THIS PROCEDURE IS FURTHER COMPLICATED BY THE ADDITIONAL REQUIREMENT THAT THE PRIOR ADVICE OF FM WITH RESPECT TO QUALITY AND STANDARD OF MANUFACTURE BE OBTAINED. IN THE CASE OF WEAPONRY FALLING IN THE 2ND CATEGORY, EXPORTATION MAY BE AUTHORIZED BY THE MINISTRY OF DEFENSE, WHICH THEN CONSULTS THE MINISTRIES OF FOREIGN AFFAIRS AND/OR COMMERCE IF DEEMED NECESSARY. AGAIN, FM MUST FIRST ADVISE RESPECTING QUALITY AND STANDARD OF MANUFACTURE. IN

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THE CASE OF ARMS CLASSIFIED FOR "CIVILIAN USE", EXPORTERS NEED ONLY OBTAIN THE AUTHORIZATION OF FM, WHICH IF IT DEEMS NECESSARY MAY SEEK THE OPINION OF THE MINISTRIES OF FOREIGN AFFAIRS AND/OR COMMERCE. EMBASSY IS INFORMED THAT, IN PRACTICE, THE MINISTRY OF FOREIGN AFFAIRS IS ALWAYS CONSULTED REGARDING ARMS EMBARGOS TO IMPORTING COUNTRIES.

6. AS CAN BE INFERRED FROM THE SEQUENCE OF STEPS REQUIRED FOR PROCESSING EXPORT AUTHORIZATIONS FM IS IN ALL CASES THE STARTING POINT IN THE APPLICATION PROCESS. FURTHER, THE EXPORTER MUST BE REGISTERED WITH FM. REGULATIONS AS CONTAINED IN DECRETO NO. 8731/72 REQUIRE THE EXPORTER TO INITIATE HIS APPLICATION WITH FM ATTACHING ALL NECESSARY DOCUMENTATION TO IDENTIFY THE PARTICULAR PRODUCT AND TO ACCOMODATE FOREIGN AGENCIES AND ORGANIZATIONS. AT THE SAME TIME, FM MUST CERTIFY THAT THE EXPORTER IS FULLY REGISTERED AS AN EXPORTER.

7. EMBASSY IS POUCHING COPIES OF LEY NO. 20,429, DECRETO NO. 395, LEY NO. 2,009 AND DECRETO NO. 8731.
COMMENT: IN VIEW OF THE FACT THAT CONTROL OF ARMS SHIPMENT RESTS WITH THE MINISTRY OF DEFENSE AND THE ARMY, AS REPRESENTED BY FM, EMBASSY BELIEVES THAT LAWS AND REGULATIONS GOVERNING ARMS AND EXPORTS ARE VIGOROUSLY ENFORCED. THERE IS EVERY REASON TO BELIEVE THAT U.S. RESTRAINTS ON ALIENATION OF ARMS AND MUNITIONS WOULD BE RESPECTED.
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